

# WASHINGTON'S BLANKET PRIMARY



Provided by the Senate Democratic Caucus, (360) 786-7350

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## What is a 'blanket' primary?

Washington's current "blanket" primary election system allows voters to choose a candidate from any political party, and doesn't require voters to reveal their own political loyalty. It was adopted in 1935, after being submitted as an initiative to the Legislature, as a way to allow citizens – rather than parties – a way to select the finalists for public office. It is popular among Washington voters because most consider themselves independent and want the option to vote for any candidate regardless of affiliation.

## The first court challenges

The U.S. Supreme Court ruled in June 2000 that California's primary – which was similar to Washington's – was unconstitutional because it violated political parties' First Amendment right as private organizations to nominate their own candidates for the general election. The court determined that voters not affiliated with the parties were being allowed to interfere in the parties' selection process. In July 2000, Washington's Democratic, Republican and Libertarian parties sued in federal court to have the state's blanket primary thrown out.

## Two alternatives, but no solution

Many alternative proposals for the state's primary were introduced by the 2001 Legislature. Two competing plans ultimately gained support, although they left little room for compromise and the Legislature was not able to agree on a solution. The matter was then left to the federal courts.

- ✓ **The Louisiana "cajun" primary** – Approved by the Senate, this plan would advance the top two vote-getting candidates – regardless of party affiliation – to the general election. *Advantage:* This approach is constitutional because it makes the primary a qualifying election, not a party nominating process. *Disadvantage:* Opponents suggested that it could reduce choice in the general election by excluding minor party candidates and potentially allow two candidates of the same party to advance to the general election.
- ✓ **"Open-private" primary** – Approved by the House, this plan would advance the top vote-getters from each party to the general election. Voters would be asked to mark a party affiliation at the top of their ballot, and their votes would be counted toward party nominations depending upon which box they select. The voter's party choice would be private. *Advantage:* It preserves the primary as a party-nominating process, and voters could still vote for whomever they choose. *Disadvantage:* Opponents suggested that it could confuse, anger and disenfranchise voters because not all votes would count toward selecting candidates to appear on the general election ballot.

## What's happened recently?

A federal district court upheld Washington's primary, explaining that it differed from California's because voters were not required to register by party. The political parties appealed, and in September 2003 the 9th U.S. Circuit Court of Appeals reversed the district court's decision. The court said:

*"The State of Washington conducts a 'blanket' primary, in which voters choose candidates without being restricted to candidates of any particular party. The Democratic, Republican and Libertarian Parties all challenged the law, claiming that it unconstitutionally restrains their supporters' freedom of association. They are correct.*

*We recognize that Washington voters are long accustomed to a blanket primary and acknowledge that this form of primary has gained a certain popularity among many of the voters. Nonetheless, these reasons cannot withstand the constitutional challenge presented here. The legal landscape has changed, and our decision is compelled by the Supreme Court's landmark decision in California Democratic Party v. Jones."*

The state Attorney General and Secretary of State asked the 9th U.S. Circuit Court of Appeals to review its ruling, but the court refused. As a result, the Attorney General and Secretary of State have said they plan to appeal the case to the U.S. Supreme Court.